



## Revised Texas Franchise Tax



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# Compensation

## Texas Tax Code §171.1013 Rule 3.589

Presented by: Franchise Tax Policy Staff  
Organizer: Janet Spies  
Panelists: Teresa Bostick, Claire Jamal, Jerry Oxford,  
Jennifer Specchio, and Bill York



# Compensation

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Margin...

...is computed in one of three ways:

- o Total Revenue x 70%
- o Total Revenue minus COGS
- o Total Revenue minus Compensation

Note: an election to use Compensation must be made by the due date of the report and once elected cannot be amended to use COGS.



# Compensation

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## Includes:

- o Wages and Cash compensation paid to employees, partners, owners, officers
- o Employee Benefits



# Compensation

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## Exclusions

- o Wages and Cash compensation paid to undocumented workers
- o Employer's share of payroll taxes
- o Contract wages reported on Form 1099



# Compensation includes:

## Compensation

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### Wages and Cash

- o the amount entered in the Medicare wages and tips box of Internal Revenue Service Form W-2
- o the amount of net distributive income, regardless of whether cash or property is actually distributed, reportable to partners or owners during the accounting period
- o stock awards and stock options deducted for federal income tax purposes



# Compensation

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## Net Distributive Income is

the net amount of income, gain, deduction or loss relating to a pass-through entity or disregarded entity reportable to the owners (natural persons) for the tax year of the entity.

To compute Net Distributive Income:

From an S Corporation: 1120S Schedule K-1 – add amounts on lines 1, 2, 3, 4, 5a, 6, 7, 8a, 9, and 10. From the result, subtract the sum of the amounts on lines 11, 12, and 14 (Code L – Foreign Taxes only).

From a Partnership: 1065, Schedule K-1 – add amounts on lines 1, 2, 3, 4, 5, 6a, 7, 8, 9a, 10, and 11. From the result, subtract the sum of the amounts on lines 12, 13, and 16 (Code L – Foreign Taxes only).



# Compensation

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## Wages & Cash Compensation – Limitations

- A taxable entity cannot subtract more than \$300,000, per 12 month period on which margin is based, for any one officer, director, owner, partner or employee
- If a person is paid by more than one member of a combined group, the group is limited to \$300,000 per person



# Compensation

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## Benefits -

are allowed to the extent deductible for federal income tax purposes, and include:

- o workers' compensation,
- o health care,
- o employer contributions to health savings accounts
- o retirement



# Compensation

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## Benefits -

does not include:

- o amounts included in the definition of wages and cash compensation
- o discounts on merchandise, services, etc.
- o payroll taxes
- o working condition amounts provided so employees can perform their jobs
- o any amounts paid by the employee



# Compensation

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## Staff Leasing Companies

(includes temporary employment companies)

may not subtract the following amounts as they relate to assigned employees:

- o Wages and Cash compensation
- o Payroll taxes
- o Employee benefits



# Compensation

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## Client Companies (in staff leasing contract)

may subtract the following amounts as they relate to assigned employees:

- o Wages and Cash compensation
- o Employee benefits

Note: The client company may not subtract, as part of compensation, an administrative fee or other costs.



# Compensation

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## Management Company is:

an entity that that conducts all or part of the active trade or business of another entity (the managed entity) in exchange for a fee and reimbursement of costs.



# Compensation

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## Management Company

cannot subtract any compensation amounts  
reimbursed by a managed entity

## Managed Entity

may subtract wages and cash compensation  
that are reimbursed to the management  
company



# Compensation

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## Small Employers

(as defined in Insurance Code, §1501.002)

That has not provided health care benefits to any of its employees in the calendar year preceding the beginning date of its reporting period.

May include as compensation:

- o An additional 50% of health care benefits during the first year.
- o An additional 25% of health care benefits during the second year.



# Contact Us

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